

COMP
David N. Salmon, Esq.
Nevada Bar No. 7168
DAVID SALMON & ASSOCIATES, INC.
7495 W. Azure Drive, Suite 102
Las Vegas, NV 89130
Phone: (702) 382-9696
E-Mail: dsalmon@dsalmonlaw.com
Attorneys for William Eddins

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEVADA
LAS VEGAS DIVISION**

WILLIAM EDDINS, an individual,)	CASE NO.:
)	
Plaintiff,)	
vs.)	
)	
PLAZA DEL RIO, LLC, a limited liability)	
company; DOE INDIVIDUALS 1-20, and)	COMPLAINT
ROE CORPORATIONS 21-40.)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff William Eddins (“Eddins” or “Plaintiff”) hereby sues Defendant, PLAZA DEL RIO, LLC, a limited liability company, (hereinafter “Defendant”) pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.* (“ADA”), and its implementing regulations, the ADA’s Accessibility Guidelines, 28 C.F.R. Part 36 (“ADAAG”) and alleges as follows:

PRELIMINARY STATEMENT

1. Though not required by the ADA, Plaintiff attempted to resolve this matter prior to filing the present complaint but was unable to do so.
2. Defendant’s ADA violations create real and significant barriers to entry for disabled persons such as Plaintiff. Pursuant to Title III of the ADA, Plaintiff seeks declaratory and

1 injunctive relief requiring Defendant to (1) remedy the violations identified herein and (2) enact
2 and adhere to a policy that ensures the proper maintenance of the property to avoid future ADA
3 violations.

4 **JURISDICTION AND PARTIES**

5 3. This is an action for declaratory and injunctive relief pursuant to Title III of the ADA.
6 This Court is vested with original jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and
7 1343 for Plaintiff's claims pursuant to 42 U.S.C. § 12181 *et seq.*, based upon Defendant, PLAZA
8 DEL RIO, LLC's, failure to remove physical barriers to access and violations of Title III of the
9 ADA.

10 4. Venue is properly located in the DISTRICT COURT OF NEVADA IN THE LAS
11 VEGAS DIVISION pursuant to 28 U.S.C. § 1391(b) because venue lies in the judicial district
12 of the property situs or the judicial district in which a substantial part of the events or omissions
13 giving rise to Plaintiff's claims occurred. The Defendant's property is located in and does
14 business within this judicial district and all events giving rise to this lawsuit occurred in this
15 judicial district.

16 5. Plaintiff, William Eddins, is and has been at all times relevant to the instant matter, a
17 natural person residing in Nevada and is sui juris.

18 6. Plaintiff is an individual with disabilities as defined by the ADA.

19 7. Plaintiff is substantially limited in performing one or more major life activities,
20 including but not limited to: walking and standing.

21 8. Plaintiff uses a wheelchair for mobility purposes.

22 9. Plaintiff is also an independent advocate of the rights of similarly situated disabled
23 persons and is a "tester" for the purpose of enforcing Plaintiff's civil rights, monitoring,
24

1 determining and ensuring whether places of public accommodation are in compliance with the
2 ADA. Plaintiff's motivation to return to a location, in part, stems from a desire to utilize ADA
3 litigation to make his home community more accessible for Plaintiff and others; and pledges to
4 do whatever is necessary to create the requisite standing to confer jurisdiction upon this Court
5 so an injunction can be issued correcting the numerous ADA violations on the Subject Property,
6 including returning to the Subject Property as soon as it is accessible ("Advocacy Purposes").

7 10. Defendant, PLAZA DEL RIO, LLC, is a limited liability company conducting
8 business in the State of Nevada and within this judicial district.

9 **FACTUAL ALLEGATIONS**

10 11. On or about January of 2023, Plaintiff attempted to but was deterred from patronizing
11 and/or gaining equal access as a disabled patron to the Plaza Del Rio Shopping Center located
12 at 6055 East Lake Mead Boulevard, Las Vegas, NV 89156 ("Subject Facility", "Subject
13 Property").

14 12. PLAZA DEL RIO, LLC is the owner, lessor, and/or operator/lessee of the real
15 property and improvements that are the subject of this action, specifically the Plaza Del Rio
16 Shopping Center and its attendant facilities, including vehicular parking and common exterior
17 paths of travel within the site identified by the Clark County Assessor parcel identification
18 number 14022302001 ("Subject Facility", "Subject Property").

19 13. Plaintiff lives within thirty (30) miles of the Subject Property. Because the Subject
20 Property is located on E Lake Mead Blvd, a Clark County thoroughfare that he frequents
21 routinely, he is routinely where the Subject Property is located and travels in and about the
22 immediate area of the Subject Property numerous times every month, if not every week.

1 14. Plaintiff's access to the Subject Property and/or full and equal enjoyment of the
2 goods, services, facilities, privileges, advantages and/or accommodations offered therein were
3 denied and/or limited because of his disabilities, and he will be denied and/or limited in the future
4 unless and until Defendant, PLAZA DEL RIO, LLC, is compelled to remove the physical
5 barriers to access and correct the ADA violations that exist at the Subject Property, including
6 those set forth in this Complaint.

7 15. Plaintiff has visited, i.e. attempted to patronize, the Subject Property on multiple prior
8 occasions, and at least once before as a patron and advocate for the disabled. Plaintiff intends on
9 revisiting the Subject Property within six months of the filing of this Complaint or sooner, as
10 soon as the barriers to access detailed in this Complaint are removed. The purpose of the revisit
11 is to be a regular patron to determine if and when the Subject Property is made accessible, and
12 to maintain standing for this lawsuit for Advocacy Purposes.

13 16. Plaintiff intends on revisiting the Subject Property to enjoy the same experiences,
14 goods, and services available to Defendant's non-disabled patron as well as for Advocacy
15 Purposes, but does not intend to continue to repeatedly re-expose himself to the ongoing barriers
16 to equal access and engage in the futile gesture of attempting to patronize the Subject Property,
17 a business of public accommodation known to Plaintiff to have numerous and continuing barriers
18 to equal access for wheelchair users.

19 17. Plaintiff recently traveled to the Subject Property as a patron and as an independent
20 advocate for the disabled, encountered and/or observed the barriers to access that are detailed in
21 this Complaint, engaged those barriers where physically possible, suffered legal harm and legal
22 injury, and will continue to suffer such harm and injury as a result of the illegal barriers to equal
23 access present at the Subject Property.

24

1 18. Plaintiff has a fundamental right as established under the ADA to patronize any place
2 of public accommodation as any person who is not disabled has.

3 19. Plaintiff's day-to-day life has been negatively affected by the barriers to entry at the
4 Subject Property, as his fundamental right to patronize any place of public accommodation at his
5 choosing has been diminished by Defendant's non-compliance with the ADA.

6 20. Plaintiff has no obligation to only patronize places of public accommodation that are
7 ADA compliant.

8 21. If barriers to entry are not removed at the Subject Property, it will place undue
9 hardship, cause Plaintiff loss of opportunity, and unduly force Plaintiff to "search" for a place of
10 public accommodation to patronize that is ADA compliant.

11 **COUNT I – CLAIM FOR INJUNCTIVE RELIEF**
12 **(Against Defendant for ADA Violations)**

13 22. The effective date of Title III of the ADA was January 26, 1992 (or January 26, 1993,
14 if a defendant has 10 or fewer employees and gross receipts of \$500,000 or less). 42 U.S.C. §
15 12181; 28 C.F.R. § 36.508(a).

16 23. The Subject Property is a public accommodation and service establishment.

17 24. Pursuant to the mandates of 42 U.S.C. § 12134(a), on July 26, 1991, the Department
18 of Justice and Office of Attorney General promulgated federal regulations to implement the
19 requirements of the ADA. 28 C.F.R. Part 36.

20 25. Public accommodations were required to conform to these regulations by January 26,
21 1992 (or by January 26, 1993, if a defendant has 10 or fewer employees and gross receipts of
22 \$500,000 or less). 42 U.S.C. § 12181 *et seq.*; 28 C.F.R. § 36.508(a).

23 26. The Subject Property must be, but is not, in compliance with the ADA and the
24 ADAAG.

1 27. Plaintiff has attempted to, and has to the extent possible, accessed the Subject
2 Property in his capacity as a patron at the Subject Property and as an independent advocate for
3 the disabled, but could not fully do so because of his disabilities resulting from the physical
4 barriers to access, dangerous conditions and ADA violations that exist at the Subject Property
5 that preclude and/or limit his access to the Subject Property and/or the goods, services, facilities,
6 privileges, advantages and/or accommodations offered therein, including those barriers,
7 conditions and ADA violations more specifically set forth in this Complaint.

8 28. Plaintiff intends to visit the Subject Property again in the very near future as a patron
9 and as an independent advocate for the disabled, in order to utilize all of the goods, services,
10 facilities, privileges, advantages and/or accommodations commonly offered to able-bodied
11 patrons of the Subject Property but will be unable to fully do so because of his disability and
12 the physical barriers to access, dangerous conditions and ADA violations that exist at the
13 Subject Property that preclude and/or limit his access to the Subject Property and/or the goods,
14 services, facilities, privileges, advantages and/or accommodations offered therein, including
15 those barriers, conditions and ADA violations more specifically set forth in this Complaint.

16 29. Defendant, PLAZA DEL RIO, LLC, has discriminated against Plaintiff (and others
17 with disabilities) by denying his access to, and full and equal enjoyment of the goods, services,
18 facilities, privileges, advantages and/or accommodations of the Subject Property, as prohibited
19 by, and by failing to remove architectural barriers as required by, 42 U.S.C. §
20 12182(b)(2)(A)(iv).

21 30. Defendant, PLAZA DEL RIO, LLC, will continue to discriminate against Plaintiff
22 and others with disabilities unless and until PLAZA DEL RIO, LLC is compelled to remove all
23 physical barriers that exist at the Subject Property, including those specifically set forth herein,
24

1 and make the Subject Property accessible to and usable by Plaintiff and other persons with
2 disabilities.

3 31. A specific list of unlawful physical barriers, dangerous conditions and ADA
4 violations which Plaintiff experienced and/or observed that precluded and/or limited Plaintiff's
5 access to the Subject Property and the full and equal enjoyment of the goods, services, facilities,
6 privileges, advantages and accommodations of the Subject Property include, but are not limited
7 to:

8 ACCESSIBLE ROUTES/PARKING

9 Plaza Del Rio Shopping Center

(Exterior)

- 10 a. There is no van-accessible parking identified as such with
11 upright "Van Accessible" signage in violation of Section 4.6 of
12 the 1991 ADAAG and Sections 208, 302 and 502 of the 2010
13 ADAAG. These violations made it dangerous for Plaintiff to
utilize the parking facility at the Subject Property and caused
Plaintiff loss of opportunity.

14 Plaza Del Rio Shopping Center

(Exterior)

- 15 b. The plaintiff could not safely utilize the parking facility because
16 the designated accessible parking spaces are not level in all
17 directions because of Defendant's practice of failing to inspect
18 and maintain the parking surface in violation of 28 CFR §
36.211, Section 4.6.3 of the 1991 ADAAG and Section 502.4 of
the 2010 ADAAG. These violations made it dangerous for
Plaintiff to utilize the parking facility at the Subject Property and
caused Plaintiff loss of opportunity.

19 Plaza Del Rio Shopping Center

(Exterior)

- 20 c. The plaintiff could not safely utilize the parking facility because
21 the accessible aisles are not level in all directions because of
22 Defendant's practice of failing to inspect and maintain the
23 parking surface in violation of 28 CFR § 36.211, Section 4.6.3
of the 1991 ADAAG and Section 502.4 of the 2010 ADAAG.
These violations made it dangerous for Plaintiff to utilize the

1 parking facility at the Subject Property and caused Plaintiff loss
2 of opportunity.

3 Plaza Del Rio Shopping Center
4 (Exterior)

- 5 d. The plaintiff could not safely traverse the path of travel from the
6 parking facility to the store entrance as the designated accessible
7 route has excessive cross slopes and unpermitted changes in the
8 level present. Violation: The path of travel contains excessive
9 slopes in violation of Sections 4.3.7 and 4.3.8 of the 1991
10 ADAAG and Sections 403.3 and 403.4 of the 2010 ADAAG. These violations made it dangerous and difficult for Plaintiff to
11 access the Subject Facility solely because he uses a wheelchair. This violation made it dangerous for Plaintiff to utilize the
12 parking facility at the Subject Property and caused Plaintiff loss
13 of opportunity.

14 Kwiky Mart
15 (Exterior)

- 16 e. There is no van-accessible parking present in violation of
17 Section 4.6 of the 1991 ADAAG and Section 502 of the 2010
18 ADAAG. These violations made it dangerous for Plaintiff to
19 utilize the parking facility at the Subject Property and caused
20 Plaintiff loss of opportunity.

21 Kwiky Mart
22 (Exterior)

- 23 f. There are slope variations at the purported access aisle with
24 changes in direction that have caused a compound cross slope in
violation of Sections 4.5.1 and 4.6.3 of the 1991 ADAAG and
Sections 302, 403, and 502.4 of the 2010 ADAAG. These
violations made it dangerous for Plaintiff to utilize the parking
facility at the Subject Property and caused Plaintiff loss of
opportunity.

25 Kwiky Mart
26 (Exterior)

- 27 g. There are slope variations at the purported accessible parking
28 spaces with changes in direction that have caused a compound
29 cross slope in violation of Sections 4.5.1 and 4.6.3 of the 1991
30 ADAAG and Section 302, 403, and 502.4 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the

1 parking facility at the Subject Property and caused Plaintiff loss
2 of opportunity.

3 Kwiky Mart
4 (Exterior)

- 5 h. The ramp to the accessible entrance (the only means of access to
6 wheelchair users) has a run that exceeds the maximum slope
7 requirement (8.33%) set forth in Section 4.7.2 of the 1991
8 ADAAG and Section 406.1 of the 2010 ADAAG. These
9 violations made it dangerous for Plaintiff to utilize the parking
10 facility at the Subject Property and caused Plaintiff loss of
11 opportunity.

12 Kwiky Mart
13 (Exterior)

- 14 i. The curb ramp leading to the entrance of the Subject Property
15 from the parking facility has flared sides, which are steeper than
16 1:10. This is in violation of 28 CFR § 36.211, 4.7.5 of the 1991
17 ADAAG, and 406.3 of 2010 ADAAG. These violations made it
18 dangerous for Plaintiff to utilize the parking facility at the
19 Subject Property and caused Plaintiff loss of opportunity.

20 Kwiky Mart
21 (Exterior)

- 22 j. The plaintiff could not safely traverse the path of travel from the
23 parking area to the entry doors because the ramp lacks a level
24 top landing. Violation: The ramp has no level landing area in
violation of Section 4.8.4 of the 1991 ADAAG and Sections 405
and 406 of the 2010 ADAAG. These violations made it
dangerous for Plaintiff to utilize the parking facility at the
Subject Property and caused Plaintiff loss of opportunity.

25 Kwiky Mart
26 (Exterior)

- 27 k. The access aisle adjacent to the designated accessible spaces has
28 a curb ramp projecting into it and/or has surfaces that are
otherwise not level in all directions in violation of 28 CFR §
36.211, Section 4.6.3 of the 1991 ADAAG and Section 502.4 of
the 2010 ADAAG. These violations made it dangerous for
Plaintiff to utilize the parking facility at the Subject Property and
caused Plaintiff loss of opportunity.

Panaderi Restaurant
(Exterior)

- l. There is no visible upright signage (displaying the International Symbol of Accessibility) designating parking space as accessible in violation of Section 4.6 of the 1991 ADAAG and Section 502 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the parking facility at the Subject Property and caused Plaintiff loss of opportunity.

Panaderi Restaurant
(Exterior)

- m. There are slope variations at the purported designated accessible parking space with changes in direction that have caused a compound cross slope in violation of Sections 4.5.1 and 4.6.3 of the 1991 ADAAG and Sections 302, 403, and 502.4 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the parking facility at the Subject Property and caused Plaintiff loss of opportunity.

Panaderi Restaurant
(Exterior)

- n. There are slope variations at the purported access aisle with changes in direction that have caused a compound cross slope in violation of Sections 4.5.1 and 4.6.3 of the 1991 ADAAG and Sections 302, 403, and 502.4 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the parking facility at the Subject Property and caused Plaintiff loss of opportunity.

PT'S Pub and Poker Restaurant
(Exterior)

- o. There is no van-accessible parking present in violation of Section 4.6 of the 1991 ADAAG and Section 502 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the parking facility at the Subject Property and caused Plaintiff loss of opportunity.

PT'S Pub and Poker Restaurant
(Exterior)

- p. The access aisle is too narrow in violation of Section 4.1 of the 1991 ADAAG and Section 503 of the 2010 ADAAG. These violations made it dangerous for Plaintiff to utilize the parking

1 facility at the Subject Property and caused Plaintiff loss of
2 opportunity.

3 PT'S Pub and Poker Restaurant
4 (Exterior)

- 5 q. There is no visible upright signage (displaying the International
6 Symbol of Accessibility) designating parking space as
7 accessible in violation of Section 4.6 of the 1991 ADAAG and
8 Section 502 of the 2010 ADAAG. These violations made it
9 dangerous for Plaintiff to utilize the parking facility at the
10 Subject Property and caused Plaintiff loss of opportunity.

11 PT'S Pub and Poker Restaurant
12 (Exterior)

- 13 r. There are slope variations at the purported designated accessible
14 parking space with changes in direction that have caused a
15 compound cross slope in violation of Sections 4.5.1 and 4.6.3 of
16 the 1991 ADAAG and Sections 302, 403, and 502.4 of the 2010
17 ADAAG. These violations made it dangerous for Plaintiff to
18 utilize the parking facility at the Subject Property and caused
19 Plaintiff loss of opportunity.

20 PT'S Pub and Poker Restaurant
21 (Exterior)

- 22 s. There is no accessible route from the spaces closest to the
23 entrance of the Subject Facility to the entrance of the facility.
24 This is in violation of Section 4.3.2 of the 1991 ADAAG and
Section 206.2.1, 402.2, and 403 of the 2010 ADAAG. These
violations made it dangerous for Plaintiff to utilize the parking
facility at the Subject Property and caused Plaintiff loss of
opportunity.

PT'S Pub and Poker Restaurant
(Exterior)

- t. The plaintiff could not safely traverse the path of travel from the
parking facility to the store entrance due to the nature and extent
of the architectural barriers that exist in the parking facility and
the path of travel to the storefront curb from the parking lot and
from the parking lot to the entrance. This property has no
accessible route for wheelchair users in violation of Section
4.3.2 of the 1991 ADAAG and Section 402.2 of the 2010
ADAAG. These violations made it dangerous for Plaintiff to

utilize the parking facility at the Subject Property and caused Plaintiff loss of opportunity.

MAINTENANCE PRACTICES

- a. Defendant has a practice of failing to maintain the accessible features of the facility, creating barriers to access for the Plaintiff, as set forth herein, in violation of 28 CFR § 36.211. This practice prevented access to the plaintiff equal to that of Defendant's able-bodied customers causing Plaintiff loss of opportunity.
- b. Defendant has a practice of failing to maintain the accessible elements at the Subject Facility by neglecting their continuing duty to review, inspect, and discover transient accessible elements which by the nature of their design or placement, frequency of usage, exposure to weather and/or other factors, are prone to shift from compliant to noncompliant so that said elements may be discovered and remediated.
- c. Defendant has failed and continues to fail to alter their inadequate maintenance practices to prevent future recurrence of noncompliance with dynamic accessible elements at the Subject Facility in violation of 28 CFR § 36.211, the 1991 ADAAG, and the 2010 ADAAG. These violations, as set forth hereinabove, made it impossible for Plaintiff to experience the same access to the goods, services, facilities, privileges, advantages and accommodations of the Subject Facility as Defendant's able-bodied patrons and caused Plaintiff loss of opportunity.
- d. Defendant has failed to modify their discriminatory maintenance practices to ensure that, pursuant to their continuing duty under the ADA, the Subject Property remains readily accessible to and usable by disabled individuals, including Plaintiff, as set forth herein, in violation of 28 CFR § 36.302 and 36.211. This failure by Defendant prevented access to the plaintiff equal to that of Defendant's able-bodied customers causing Plaintiff loss of opportunity.

///

1 32. The discriminatory violations described above are not an exhaustive list of the
2 Defendant's current barriers to equal access and violations of the ADA because Plaintiff was
3 unable to access and assess all areas of the subject premises due to the architectural barriers
4 encountered. A complete list of the subject location's ADA violations affecting the Plaintiff as
5 a wheelchair user, and the remedial measures necessary to remove same, will require an on-site
6 inspection by Plaintiff's representatives pursuant to Federal Rule of Civil Procedure 34. Once
7 the Plaintiff personally encounters discrimination, as alleged above, or learns of discriminatory
8 violations through expert findings of personal observation, has actual notice that the Defendant
9 does not intend to comply with the ADA.

10 33. The Defendant has a practice of failing to maintain the accessible elements at the
11 Subject Property by neglecting their continuing duty to review, inspect, and discover transient
12 accessible elements which by the nature of its design or placement, frequency of usage, exposure
13 to weather and/or other factors, are prone to shift from compliant to noncompliant, so that said
14 elements are discovered and remediated. Defendant has failed and continue to fail to alter their
15 inadequate maintenance practices to prevent future recurrence of noncompliance with dynamic
16 accessible elements at the Subject Property in violation of 28 CFR §§ 36.202 and 36.211. These
17 violations, as referenced hereinabove, made it impossible for Plaintiff, as a wheelchair user, to
18 experience the same access to the goods, services, facilities, privileges, advantages and
19 accommodations of the Subject Property as Defendant's able-bodied patrons.

20 34. Accessible elements at the Subject Property have been altered and/or constructed
21 since 2010.

22 35. The foregoing violations are violations of the 1991 ADAAG, and the 2010 ADAAG,
23 as adopted by the U.S. Department of Justice. In instances where the 2010 ADAAG standards
24

1 do not apply, the 1991 ADAAG standards apply, and all of the alleged violations set forth herein
2 can be modified to comply with the 1991 ADAAG standards.

3 36. The removal of the physical barriers, dangerous conditions and ADA violations
4 alleged herein is readily achievable and can be accomplished and carried out without significant
5 difficulty or expense. 42 U.S.C. § 12182(b)(2)(A)(iv); 42 U.S.C. § 12181(9); 28 C.F.R. § 36.304.

6 37. Each of the violations alleged herein is readily achievable to modify to bring the
7 Subject Property into compliance with the ADA.

8 38. Removal of the physical barriers and dangerous conditions present at the Subject
9 Property is readily achievable because of the site conditions at the Subject Property, the structural
10 design of the subject facility, and the straightforward nature of the necessary modifications.

11 39. To assist businesses in offsetting the costs associated with complying with the ADA
12 and removing barriers to access for individuals with disabilities, Section 44 of the IRS Code
13 provides a tax credit for small business owners, and Section 190 of the IRS Code provides a tax
14 deduction for all business owners, including the Defendant.

15 40. Removal of the physical barriers and dangerous conditions at the Subject Property is
16 readily achievable because of the relative low cost of the necessary modifications and the
17 Defendant has the financial resources to make the modifications, including the financial
18 assistance made available to Defendant by the government pursuant to Section 44 and/or Section
19 190 of the IRS Code.

20 41. By continuing to maintain and/or operate the Subject Property with discriminatory
21 conditions in violation of the ADA, Defendant contributes to Plaintiff's sense of isolation and
22 segregation and deprive Plaintiff of the full and equal enjoyment of the goods, services, facilities,
23 privileges, and accommodations available to able bodied individuals of the general public.
24

1 42. Defendant is required to remove the existing architectural barriers to the physically
2 disabled when such removal is readily achievable for their places of public accommodation that
3 have existed prior to January 26, 1992, 28 CFR 36.304(a); additionally, if there has been an
4 alteration to Defendant's place of public accommodation since January 26, 1992, then Defendant
5 is required to ensure to the maximum extent feasible, that the altered portions of the facility are
6 readily accessible to and usable by individuals with disabilities, including people who use
7 wheelchairs, 28 CFR 36.402; and finally, if the Defendant's facilities were designed and
8 constructed for first occupancy subsequent to January 26, 1993, as defined in 28 CFR 36.401,
9 then the Defendant's facilities must be readily accessible to and useable by individuals with
10 disabilities as defined by the ADA. To date, Defendant has failed to comply with this mandate.

11 43. Plaintiff is without adequate remedy at law and is suffering irreparable harm and
12 reasonably anticipates that he will continue to suffer irreparable harm unless and until Defendant,
13 PLAZA DEL RIO, LLC, is required to remove the physical barriers, dangerous conditions and
14 ADA violations that exist at the Subject Property, including those alleged herein. Considering
15 the balance of hardships between the Plaintiff and Defendant, a remedy in equity is warranted.

16 44. Plaintiff's requested relief serves the public interest.

17 45. Plaintiff's counsel is entitled to recover his reasonable attorneys' fees and costs of
18 litigation from Defendant, PLAZA DEL RIO, LLC, pursuant to 42 U.S.C. §§ 12188, 12205 and
19 28 CFR 36.505. Plaintiff will be denied full and equal access to the subject premises, as provided
20 by the ADA unless the injunctive relief requested herein is granted.

21 46. Pursuant to 42 U.S.C. § 12188, this Court is vested with the authority to grant Plaintiff
22 injunctive relief; including an Order to alter the subject facilities to make them readily accessible
23 to, and useable by, individuals with disabilities to the extent required by the ADA, and closing
24

1 the subject facilities until the requisite modifications are completed, and ordering Defendant to
 2 fulfill their continuing duty to maintain the accessible features at the premises in the future as
 3 mandated by 28 CFR 36.211.

4 WHEREFORE, the Plaintiff prays as follows:

- 5 A. That the Court find Defendant, PLAZA DEL RIO, LLC, in violation of
 6 the ADA and ADAAG;
- 7 B. That the Court enter an Order requiring Defendant, PLAZA DEL RIO,
 8 LLC, to (i) remove the physical barriers to access and (ii) alter the
 9 Subject Property to make the Subject Property readily accessible to and
 10 useable by individuals with disabilities to the full extent required by
 11 Title III of the ADA;
- 12 C. That the Court enter an Order directing Defendant, pursuant to 28 C.F.R.
 13 §36.211, to fulfill their continuing duty to maintain their accessible
 14 features and equipment so that the facility remains accessible to and
 15 useable by individuals with disabilities to the full extent required by
 16 Title III of the ADA;
- 17 D. That the Court enter an Order directing Defendant to implement and
 18 carry out effective policies, practices, and procedures to maintain the
 19 accessible features and equipment pursuant to 28 C.F.R. §36.302 and 28
 20 C.F.R. §36.211.
- 21 E. That the Court enter an Order directing Defendant to evaluate and
 22 neutralize their policies and procedures towards persons with
 23 disabilities for such reasonable time so as to allow them to undertake
 24 and complete corrective procedures;
- 25 F. An award of attorneys' fees, costs (including expert fees), and litigation
 26 expenses pursuant to 42 U.S.C. § 12205 and an award of monitoring
 27 fees associated with insuring that the Defendant is in compliance with
 28 the ADA.
- 29 G. An award of interest upon the original sums of said award of attorneys'
 30 fees, costs (including expert fees), and other expenses of suit; and

///

1 H. Such other relief as the Court deems just and proper, and/or is allowable
2 under Title III of the Americans with Disabilities Act.

3
4 Dated this the 24th day of November 2023.

5 Respectfully submitted,

6 By: /s/ David N. Salmon

7 David Salmon, Esq.

8 Counsel for Plaintiff

9 Nevada State Bar No.: 7168

10 Telephone: 702-382-9696

11 Email: dsalmon@dsalmonlaw.com

12 **DEFENDANT TO BE SERVED:**

13 PLAZA DEL RIO, LLC

14 C/O NORA ARMENIAN

15 2050 Troon Drive

16 Henderson, NV 89074